

Senate File 44 - Introduced

SENATE FILE 44

BY KINNEY

A BILL FOR

1 An Act relating to sexual misconduct by a peace officer with
2 offenders and juveniles in the peace officer's custody and
3 providing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 709.16, Code 2021, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 4. *a.* Any peace officer who engages in a
4 sex act with an individual, including a juvenile, in the peace
5 officer's custody commits a class "D" felony.

6 *b.* For purposes of this subsection:

7 (1) "*Custody*" means the detention of a person by lawful
8 authority or process.

9 (2) "*Peace officer*" means a peace officer defined in section
10 801.4, subsection 11, paragraph "a", "b", "c", "f", "g", "h",
11 "i", or "j".

12 EXPLANATION

13 The inclusion of this explanation does not constitute agreement with
14 the explanation's substance by the members of the general assembly.

15 This bill relates to sexual misconduct by a peace officer
16 with offenders and juveniles in the peace officer's custody,
17 and provides penalties.

18 The bill provides that any peace officer who engages in a
19 sex act with an individual, including a juvenile, in the peace
20 officer's custody commits a class "D" felony.

21 The bill defines "custody" as the detention of a person by
22 lawful authority or process.

23 The bill defines "peace officer" to include sheriffs
24 and their regular deputies who are subject to mandated
25 law enforcement training, marshals and police officers of
26 cities, peace officer members of the department of public
27 safety, special security officers employed by board of
28 regents institutions, conservation officers, employees
29 of the department of transportation who are designated as
30 peace officers by resolution of the department, employees of
31 an aviation authority designated as peace officers by the
32 authority, and other persons so designated by law.

33 A class "D" felony is punishable by confinement for no more
34 than five years and a fine of at least \$1,025 but not more than
35 \$10,245.

1 A person who violates the bill is also subject to a special
2 sentence under Code section 903B.2. A special sentence is a
3 punishment in addition to the punishment for the underlying
4 criminal offense by committing the person into the custody of
5 the director of the Iowa department of corrections for a period
6 of 10 years. A person serving a special sentence begins the
7 sentence as if on parole or work release but the sentence is
8 subject to a revocation of release for up to two years for a
9 first revocation and five years for any second or subsequent
10 revocation.

11 A person who violates the bill is classified as a tier II sex
12 offender under Code section 692A.102(1)(b)(12) if the victim
13 is 13 years of age or older or as a tier III sex offender under
14 Code section 692A.102(1)(c)(29) if the victim is under 13 years
15 of age, and is required to register as a sex offender under
16 Code section 692A.103.